UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,043	06/15/2001	Todd S. Liebman	D 6411	1287

7590 10/19/2004

Benjamin Aaron Adler
ADLER & ASSOCIATES
8011 Candle Lane
Houston, TX 77071

EXAMINER	
LANEAU, RONALD	
ART UNIT	PAPER NUMBER
3627	

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
IF UNDELIVERABLE RETURN IN TEN DAYS

OFFICIAL BUSINESS

UNITED STATES POS
02 1A
00042022
MAILED FRC

AN EQUAL OPPORTUNITY EMPLOYER

Office Action Summary	Application No.	Applicant(s)	
	09/883,043	LIEBMAN, TODD S.	
	Examiner	Art Unit	
	Ronald Laneau	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 August 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,7,8,15-19,21,22,26,27,30 and 32-35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5, 7, 8, 15-19, 21, 22, 26, 27, 30 and 32-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Amendment

1. The amendment filed on 08/09/04 has been entered. Claims 6, 9-14, 20, 23-25, 28-29 and 31 are canceled, new claims 34 and 35 are added. Applicant stated that the transmittal letter for this application erroneously said that the application included 33 claims and applicant submits that only 29 claims were filed with the instant application. The Examiner has reviewed the information in file and found that this application was originally filed (06/15/01) with 33 claims and the fact that applicant is now added claims 34 and 35 proves that this application previously contains 33 claims. Claims 1-5, 7, 8, 15-19, 21, 22, 26, 27, 30 and 32-35 are now pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-5, 7, 8, 15-19, 21, 22, 26, 27, 30 and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lucero (US RE 34872) in view of Mueller et al (US 5,235,509).

Lucero discloses a method of self-service ordering at a restaurant comprising the steps of: providing a kiosk (28) at a drive through location in a restaurant, comprising a push button panel (36) and means for receiving a credit card (58)., operating the panel by a patron to order a food item (see col. 7, lines 62-68); totaling the charges (see col. 8, lines 1-9); inserting the credit card into the receiving means (see col. 7, lines 54-57); verifying the credit card account (see col. 7,

lines 54-68)., debiting the credit card account (see col. 8, lines 9-13)., assembling the item at a second location (see col. 8, lines 5-9) and delivering the item to the patron at a location remote from the kiosk (20). Lucero also teaches the step of printing out a receipt (66).

Lucero does not disclose a touch screen. Mueller et al disclose a restaurant kiosk (14) with a touch screen (24) for taking orders. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the touch screen of Mueller et al with the invention of Lucero, because touch screens are more easily updated.

Lucero does not teach the step of displaying advertisements. Mueller et al disclose the step of displaying advertisements on the touch screen (see col. 12, lines 3-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the advertisements of Mueller et al with the invention of Lucero to promote products.

Lucero does not teach that the receipt contains a designated location. However, it is common in the art to print a location on receipts, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the step of printing a location on the receipt of Lucero to indicate where the order may be picked up, thereby increasing throughput.

Lucero does not teach the step of printing a coupon on the receipt. However, it is common in the ad to print coupons on receipts and it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the step of printing a coupon on the receipt of Lucero to promote products and provide incentive for customers to return.

Lucero does not teach the step of suggesting additional items for sale. Mueller et al disclose the step of suggesting additional items that are appropriate to the items ordered, and

delivering the suggestion via a video display (see col. 15, line 55 through col. 17, line 11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Mueller et al with the invention of Lucero to suggest additional items to increase sales.

Lucero does not teach the step verbalizing the name of items to the kiosk. However, voice recognition software is common in the ad and it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the step of verbalizing the name of items to the kiosk of Lucero for customer convenience.

Lucero does not teach the step of receiving an electronic signature. However, electronic signature pads are common in the ad and it would have been obvious to one of ordinary skill in the ad at the time the invention was made to employ the step of receiving an electronic signature with the invention of Lucero to facilitate the transaction. Both systems do not expressly teach a PIN and an audio transmission mean that provide audio information to the patron but this is intrinsic to both systems as they try to make their product more user friendly and at the same time providing a PIN code for the security of the card's owner.

Response to Arguments

4. Applicant's arguments filed on 08/09/2004 have been fully considered but they are not persuasive.

In response to applicant's arguments that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some

teaching, suggestion, or motivation to do so found in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (FED. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Applicant's arguments are deemed unpersuasive and claims 1-5, 7, 8, 15-19, 21, 22, 26, 27, 30 and 32-35 remain rejected and made final.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (703) 305-3973. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RL
Ronald Laneau
Examiner
Art Unit 3627

rl

Primary Examiner 10/15/04